



DATE: June 14, 2004

TO: NR 115 Advisory Committee Members

FROM: Carmen Wagner, WT/2

SUBJECT: June Meeting Review

Hello – I hope everyone made it home safely through the rain on Thursday. This memo provides a brief review of the June 10 meeting and is a reminder of upcoming events.

**Upcoming Dates:**

July 12: Written comments resulting from June 10 meeting due.

August 24: Next Advisory Committee meeting. The goal is to provide a comprehensive review of a second draft of changes to NR115. Changes between the first draft and second draft will be based on Advisory Committee recommendations and comments from the May and June meetings.

Fall: Schedule another Advisory Committee meeting for comprehensive review of most current draft of the code. Schedule additional Advisory Committee meetings as needed.

January: Request approval from Natural Resources Board for approval for public hearings

Spring: Schedule public hearings around the state on proposed changes to Chapter NR 115.

**Review of June Meeting:**

The following issues were discussed at the June 10 meeting. This is not a comprehensive review of the meeting and does not include any written comments provided after the June 10 meeting. Discussion at this meeting focused on ss. NR 115.11 through NR 115.19.

- 115.11(2)(a): Water dependent structures
  - How does this apply to wet boathouses?
- 115.11(2)(c): Agricultural fences
  - Should there be any exemption for open fences for safety reasons in residential area or to separate incompatible land uses in shoreland areas?
  - Could open fences be limited to secondary buffer?
  - How is an “open fence” defined?
- 115.11(3): Permitted structures
  - Do these structures require a permit or can a county allow if certain standards are met without a permit?
  - Should structures related to utilities be allowed within the shoreland buffer setback area?
  - Should structures related to dams and levees be allowed within the shoreland buffer setback area?
- 115.11(3)(a) 1.: Stairways, walkways and lifts.
  - What if the viewing and access corridor (VAC) is not the best place to site the stairway,

- walkway or lift?
  - What if lot is a multiple-family development, is it limited to one stairway, walkway or lift? Could it be one stairway, walkway or lift per VAC?
  - What if the most appropriate construction method for the site is an at-grade stairway rather than a raised stairway?
  - Is the vertical interval between landings and the landing size consistent with UDC standards?
  - What if a homeowner wants to use an all terrain vehicle (ATV) on the walkway or is the access limited to pedestrian access? Is four feet wide enough for an ATV? Do ATV trails need to be addressed? Should there be a distinction between trails for utility and trails for recreation?
- 115.11(3)(a) 2.: Signs.
  - What if signs are needed at locations other than access sites or campgrounds, such as “Warning – Underground Cable” signs?
  - Should temporary signs, such as “For Sale” signs, be allowed?
  - If other signs are allowed, should they be limited to those requiring water dependency and for health and safety reasons?
- 115.11(3)(a) 3.: Water quality improvement structures.
  - What about wildlife habitat improvement structures? Should they also be allowed?
  - Should these structures be required to be visually unobtrusive?
- 115.11(3)(a) 4.: Structural erosion control measures
  - Is this just for retaining walls? If so, why not just say so?
  - Could this section be briefer?
- 115.11(3)(a) 5.: Marine fuel tanks.
  - Does the screening requirement conflict with any fire codes or other standards for fuel tanks?
  - Could the requirements for dispensing systems be separated from the requirements for fuel storage tanks?
  - Why would you want these structures in the VAC if you want them visually unobtrusive?
- 115.11(3)(a) 7.: Roads and driveways.
  - What if someone, because of the topography or dimension of their lot, is limited to locating the driveway within the shoreland buffer setback area?
  - Do access roads to private-owned launch sites fall under this section?
- 115.11(4): Setback reduction process.
  - Should adjoining lots be required to be in separate ownership to qualify for a reduced setback?
- 115.13(1): Shoreland buffers – vegetation standards.
  - Can this statement be made more general or easier to understand?
  - Is an exemption needed for utility and roadway maintenance?
- 115.13(2)(a): Primary buffer.
  - Does the permitted removal of vegetation require replacement?
  - What if you need to remove healthy vegetation to prevent the movement of a disease, such as oak wilt? Can you remove any dead trees?
  - What if additional clearing is required to allow machinery to complete some activity at the shoreline – is that permissible if the vegetation is restored at the completion of the activity?
  - Why was the 50-foot primary buffer depth chosen instead of 35 feet?
- 115.13(3): Viewing and access corridor (VAC).
  - How does the VAC requirements apply to condominium units, such as the conversion of old resorts?
  - Could a single-family residence have multiple VACs, if they in total do not exceed 30 feet?

- Are gravel paths allowed in the VAC? They are not vegetated.
- 115.13(6): Natural areas management activities.
  - Would this make it more difficult for people who want to restore their shorelines?
- 115.13(8): Pre-existing lots and now or expanded nonconforming structures.
  - Can this section be made more concise or easier to understand?
- 115.15: Land disturbing activities.
  - Could activities permitted by an erosion control permit or through other methods also be exempted from requiring another permit?
- 115.17: Nonconforming uses and structures.
  - Why was additional text added to the statutory language?
  - When referencing “alterations”, should it be “structural alterations”?
- 115.17(2): Nonconforming accessory structures.
  - Are the definitions of “ordinary maintenance and repair,” “structural alteration” and “reconstruction” appropriate for accessory structures? They seem to be focused on buildings and may not be appropriate or easily understood for a fence or retaining wall.
- 115.17(3)(c): Expansion (of nonconforming principal structures).
  - Is it necessary that a compliant building location be required?
  - How do the changes to ch. NR 118, Wis. Admin. Code, affect reconstruction on existing foundations?
  - Is it necessary to require compliance with height restrictions?

The Advisory Committee was unable to get the to remaining sections of the draft code, but comments provided while discussing other sections are summarized below.

- 115.19: Mitigation requirements.
  - Should more distinctions be made between activities requiring mitigation and the mitigation required? For example, should expansions be separated from reconstructions and new construction or should structural alterations to principal structures be separated from structural alterations to accessory structures?
  - Could the visually inconspicuous requirement be met by using earth-tone building materials rather than just by planting vegetation?

The following topics were general recommendations from Advisory Committee members on the drafting of the code.

- When a defined term is used for the first time in the code, refer to the definition, “...as defined in...”.
- Instead of relying on notes throughout the code, maybe more guidance would be appropriate.
- Use permissive statements instead of prohibiting activities unless something is done.

### **August 24 Meeting**

This meeting will run from 10:00 am to 4:00 pm and will be held in a location in north central Wisconsin. We will provide more information as the date gets closer.

For the meeting, we will review a second version of draft changes to NR115 starting at the beginning. Changes will be based on comments and recommendations provided as a result of the May and June meetings.

Please bring your calendars so we can schedule a meeting in late September or early October, if needed. This meeting would be to further review the changes from the August meeting to the draft code. Additional meetings will be scheduled as needed.

I will be on vacation from June 16 through August 2, but if you have any questions, please feel free to contact Richard Wedepohl at (608) 266-1926 or Russ Rasmussen at (608) 267-7651. Otherwise, please feel free to contact me at [Carmen.wagner@dnr.state.wi](mailto:Carmen.wagner@dnr.state.wi) or at (608) 266-0061. Thank you again for your assistance.